

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

FIRST APPEAL NO.1136 OF 1997.

Shri Vasant Narhar Ajarekar : Appellant

versus

The State of Maharashtra & ors. : Respondents.

Mr.A.D.Kulkarni i/by A.A.Kumbhakoni for the
appellant.

Mr.S.N.Gawade, AGP, for the State.

CORAM : D.G.DESHPANDE, J.

DATED : 24th February 2005.

ORAL ORDER

1. Heard the advocate for the appellant and learned AGP for the State. This appeal is filed by the original claimant challenging the order of the Reference Court by which the compensation at the rate of Rs.63/- per sq.mtr. was awarded as against the compensation at the rate of Rs.21/- per sq.mtr. awarded by the Special Land Acquisition Officer.

2. Counsel for the appellant pointed out that the claimant has relied upon the sale deed executed in 1978 in favour of the Bank . The chairman of the bank was examined and, he has stated on oath that the plot was purchased by them for Rs.1,95,310/-. This plot was 2000' to 3000' away from the acquired land. Nothing is brought out from his cross examination to show that the bank has not paid so much price. Counsel for the appellant, therefore, contended that the observations of the Reference Court in para 17 that, "The sale deed which is quoted by the claimants dated 22nd December 1978 is very excessive one as this land has purchased by the bank and this sale deed is not going to be considered and the claimants are not entitled to get the compensation at that rate."

3. This reasoning is not at all proper. Merely because the sale deed appears to be for a higher price, it cannot be discarded. The Reference Court should have given strong and convincing reasons for discarding the sale deed. The sale deed was of the relevant period i.e. prior to the notification of 1985 and, therefore,

the Court ought to have considered it. As a result, this sale deed has to be considered. The price of the land as per this sale deed comes to Rs.29/- per sq.ft., whereas the claimant has claimed only Rs.10/- per sq.ft. i.e. Rs.100/- per sq.mtr. What was awarded by the Reference Court was Rs.63/- per sq.mtr., and therefore, considering the aforesaid sale deed, the claimant is entitled for compensation of Rs.100/- per sq.mtr. Hence the order :-

:ORDER:

The appeal is partly allowed.

The claimant will be entitled to Rs.100/- per sq.mtr. or Rs.10/- per sq.ft. as compensation from the Government with proportionate rise in the consequential benefit.

No order as to costs.

[D.G.DESHPANDE]

24/02/2005

JUDGE.